

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

In re: Nortel Networks, Inc. et al.

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Ernst & Young Inc.,

Appellant,

v.

Nortel Networks Inc., et al.,

Appellees

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C. A. 15-105-LPS

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**RECOMMENDATION**

At Wilmington, this 20<sup>th</sup> day of **February, 2015**,

WHEREAS, pursuant to paragraph 2(a) of the Procedures to Govern Mediation of Appeals from the United States Bankruptcy Court for this District dated September 11, 2012, the court conducted an initial review, which included information from counsel, to determine the appropriateness of mediation in this matter;

WHEREAS, as a result of the above screening process, the issues involved in this case are not amenable to mediation and mediation at this stage would not be a productive exercise, a worthwhile use of judicial resources nor warrant the expense of the process.

The parties advise by a joint statement requesting that this matter be removed from the mandatory mediation requirement, in part because of the types of claims and issues involved and that the parties have previously engaged in numerous discussion, mediations and negotiations, both formal and informal, to try to resolve various issues

and disputes, including the allocation dispute, bondholders claims and post-petition interest issues which were compromised in the Settlement. The instant appeal arises from the Bankruptcy Courts entry of an order approving Settlement with the supporting bondholders over the objections of the appellants.

THEREFORE, IT IS RECOMMENDED that, pursuant to paragraph 2(a) Procedures to Govern Mediation of Appeals from the United States Bankruptcy Court for this District and 28 U.S.C. § 636(b), this matter be withdrawn from the mandatory referral for mediation and proceed through the appellate process of this Court. In light of the shared view that mediation would not be productive and the parties joint request to remove this appeal from mandatory mediation, it is understood that no objections to the Recommendation will be filed as allowed pursuant to 28 U.S.C. § 636(b)(1)(B), FED. R. CIV. P. 72(a) and D. DEL. LR 72.1.

IT IS FURTHER RECOMMENDED at the parties's request that the following briefing schedule be ordered: Appellant's opening brief due March 30, 2015, and Appellees' opening briefs due May 18, 2015, with the opening briefs not to exceed 30 pages (or 14,000 words in the event such brief exceeds 30 pages) and Appellants' reply brief due June 15, 2015, with the reply brief not to exceed 15 pages (or 7,000 words in the event such brief exceeds 15 pages).

Local counsel are obligated to inform out-of-state counsel of this Order.

/s/ Mary Pat Thyng  
UNITED STATES MAGISTRATE JUDGE